

REMARKS

The Office action of April 25, 2005 has been received and its contents carefully noted. Claims 6-10 and 33-41 are pending in the application.

The Rejection Under 35 U.S.C. § 103

Claims 6-10 and 33-41 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Eakins et al. (Retrieval of trademark images by shape feature – The Artisan Project Intelligent Image Databases, IEEE Colloquium, pages 1-6, May 22, 1996, hereinafter referred to as “Eakins”) in view of Fortenbery et al (U.S. Patent No. 5,682,468, hereinafter referred to as “Fortenbery”). The Applicant respectfully traverses the rejection.

Eakins

The Eakins reference describes the Artisan system that retrieves abstract trademark images by shape similarity. The system analyzes each image to characterize key shape components, grouping image regions into families that potentially mirror human image perception, and then derives characteristic indexing features from these families and from the image as a whole. The images are stored in a database. The system described by Eakins includes two dimensional images (see Figs. 1-4; page 2, lines 3-22)., and there is no disclosure of three dimensional objects or a view descriptor that is a representation of one of the three-dimensional objects from a different perspective view of the three-

dimensional object.

Fortenbery

Fortenbery discloses a method for manipulating a first three-dimensional object, in a computer system. The method includes creating a model of the first three-dimensional object with a first software application, which has a first three-dimensional coordinate system. The model of the first three-dimensional object is stored in a model format. The method includes retrieving the model of the first three-dimensional object in the model format into a second software application. The second software application has a second coordinate system, and a view of the model of the first three-dimensional object is manipulated with the second software application within the second coordinate system. There is no disclosure of a method for searching for a three dimensional object in still or video images by processing signals corresponding to the images of the object.

Eakins And Fortenbery Fail To Disclose Features Of Independent Claims 6 And 33

The Applicant respectfully submits that Eakins fails to disclose all the claimed features recited in independent claims 6 and 33 such as providing a plurality of stored image representations of three-dimensional objects. In the Applicant's claimed invention each image representation is associated with an object descriptor, and each object descriptor includes a plurality of view descriptors. Moreover, Eakins fails to disclose that

each view descriptor is a representation of one of the three-dimensional objects from a different perspective view of the three-dimensional object.

As described in the Amendment filed on September 12, 2003, Eakins may disclose different levels (sets) of shape features that are merely different sub-elements of the single 2-dimensional (perspective) view of the trademarked image which, by its 2-dimensional nature, only has a single perspective view instead of the multiple perspective views (e.g., top, bottom, etc.) available from a three-dimensional object. Applicant respectfully submits that the different sub-elements of the single 2-dimensional view of the trademark image (as disclosed by Eakins) do not correspond to the recited feature of a plurality of view descriptors for a three-dimensional object, each a representation of the three-dimensional object from a different perspective view.

Instead of the recited feature of providing a plurality of stored image representations of a three-dimensional object, each associated with an object descriptor including a plurality of view descriptors with each being a representation of the object from a different perspective view, Eakins in direct contrast solely develops image descriptors depicting different sub-elements of the same 2-dimensional (perspective) view of the trademark image. Simply put, Eakins completely omits any mention of an object descriptor including a plurality of view descriptors, each a representation of the three-dimensional object from a different perspective view of the three-dimensional object. Eakins may include a different sub-element of the same perspective view, but not a different perspective view as claimed in independent claims 6 and 33.

Fortenbery does not teach, show or suggest the missing view descriptor that is a representation of one of the three-dimensional objects from a different perspective view of the three-dimensional object. Fortenbery may disclose creating a model of a three-dimensional object with a software application, but Fortenbery does not disclose a method for searching for a three dimensional object in still or video images by processing signals corresponding to the images of the object. More importantly, however, Fortenbery does not disclose a view descriptor that is a representation of one of the three-dimensional objects from a different perspective view of the three-dimensional object Accordingly, the Eakins and Fortenbery do not include all the claim limitations of the claimed invention.

The Office Action Fails to Establish a *Prima Facie* Case of Obviousness

In order to establish a *prima facie* case of obviousness, a rejection made under 35 U.S.C. § 103 must meet three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The Cited Prior Art References Fail to Teach All the Claim Limitations

As described above, Applicant respectfully submits that the cited prior art fails to teach all the claim limitations of the amended independent claims. Independent claims 6 and 33 include similar claim limitations directed to a "view descriptor [that] is a representation of one of the three-dimensional objects from a different perspective view of the three-dimensional object". The Office Action alleges that on page 3 that Fortenbery reference discloses the claimed view descriptor at col. 6 lines, 20-25 and col. 8, lines 65 to col. 9, line 9. The Applicant respectfully disagrees. The Office Action relies upon passages describing three dimensional objects and not the claimed view descriptor of a three dimensional object. Since there are missing claim limitations in the cited prior art, the Office Action has failed to establish a *prima facie* case of obviousness.

There is No Motivation to Combine the Cited Prior Art References

It is respectfully submitted that the Eakins and Fortenbery references do not even recognize the problem solved by the Applicant's claimed invention, and that one skilled in the art would not be motivated to combine the teachings of Eakins and Fortenbery in order to solve the unrecognized problem.

The Applicant's claimed invention solves the problem of searching for a three-dimension object in still or video images by processing signals corresponding to the images. If the skilled artisan were to follow the teachings of the Eakins and Fortenbery, the

references, at most, would motivate the skilled artisan to modify the system of Eakins to search for two dimensional shapes, such as trademarks, disposed on the two dimensional surfaces of the three dimensional object disclosed in Fortenbery. There is no motivation whatsoever to search for the three dimensional objects as claimed by the Applicant. The only motivation to search for three dimensional objects is gleaned from the hindsight provide by Applicants' specification which teaches the desirability of searching for three dimensional objects using the claimed view descriptors.

The Applicant believes that the Office Action is based upon a selective combination of features found in the Eakins and Fortenbery references, and that such selective combining is impermissible. As stated in *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143 (Fed. Cir. 1985), "When prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself." Accordingly, Applicants respectfully submit that independent claims 6 and 33 are patentable over the cited prior art, because there is no motivation to combine the cited references to obtain the method for searching for a three-dimension object in still or video images, as disclosed and claimed by the Applicants.

Accordingly, the Applicant believes that claims 6 and 33 are patentable over the cited prior art, and the Examiner is respectfully requested to withdraw the rejection based upon 35 U.S.C. § 103(a).

Dependent Claims 7-10 and 34-41

The Applicants believe that dependent claims 7-10 and 34-41 are allowable over the cited prior art for at least the same reasons as independent claims 6 and 33 from which they depend.

Conclusion

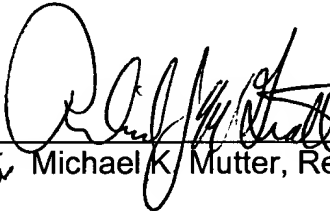
In view of the amendments and remarks submitted above, it is respectfully submitted that all of the remaining claims are allowable and a Notice of Allowance is earnestly solicited.


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Richard J. McGrath, Reg. No. 29,195 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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by 
for Michael K. Mutter, Reg. #29,680 REG. NO. 89,195


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